



05-09-05

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PTO/SB/64 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
60687(46865)

First named inventor: Philip Kusk

Application No: 09/889,491-Conf. #4096

Art Unit: 1634

Filed: February 5, 2002

Examiner: J. C. Switzer

Title: GENETIC PREDISPOSITION

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice of
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration
date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity – fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.☐ Other than small entity – fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in
the form of RCE (identify type of reply):☐ has been filed previously on _____☒ is enclosed herewith.

B. The issue fee of and publication fee (if required) \$ _____

☐ has been paid previously on _____☐ is enclosed herewith.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].



Signature

May 6, 2005

Date

Robert L. Buchanan

Typed or printed name

40,927

Registration Number, if applicable

EDWARDS & ANGELL, LLP
P.O. Box 55874
Boston, Massachusetts 02205

Address

(617) 439-4444

Telephone Number

- Enclosures: ☒ Fee Payment
- ☒ Reply RCE
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☒ Other: Petition for Extension of Time; Letter in Support; Statement of Sheila Belot; Transmittal Form.

Page 2 of 2

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV654384279US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: May 6, 2005

Signature:  (Patricia Barnes)

MAY 06 2005

PTO/SB/17 (12-04v2)

Approved for use through 7/31/2006. OMB 0651-0032

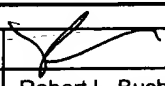
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/01/2004 Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known Application Number 09/889,491-Conf. #4096 Filing Date February 5, 2002 First Named Inventor Philip Kusk Examiner Name J. C. Switzer Art Unit 1634 Attorney Docket No. 60687(46865)	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27			
TOTAL AMOUNT OF PAYMENT (\$) 1655.00			

METHOD OF PAYMENT (check all that apply)	
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> None <input type="checkbox"/> Other (please identify): _____	
<input checked="" type="checkbox"/> Deposit Account Deposit Account Number: 04-1105 Deposit Account Name: Edwards & Angell, LLP	
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)	
<input checked="" type="checkbox"/> Charge fee(s) indicated below <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee.	
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 <input checked="" type="checkbox"/> Credit any overpayments	

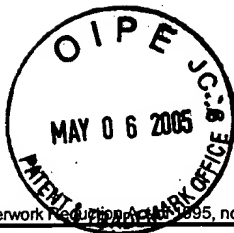
FEE CALCULATION							
1. BASIC FILING, SEARCH, AND EXAMINATION FEES							
	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		<u>Small Entity</u>		<u>Small Entity</u>		<u>Small Entity</u>	
<u>Application Type</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fee (\$)</u>	<u>Fees Paid (\$)</u>
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	
2. EXCESS CLAIM FEES							
						<u>Small Entity</u>	
<u>Fee Description</u>						<u>Fee (\$)</u>	<u>Fee (\$)</u>
Each claim over 20 (including Reissues)						50	25
Each independent claim over 3 (including Reissues)						200	100
Multiple dependent claims						360	180
<u>Total Claims</u>		<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>	<u>Multiple Dependent Claims</u>		
=		x	=		<u>Fee (\$)</u>		<u>Fee Paid (\$)</u>
<u>Indep. Claims</u>		<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>			
=		x	=				
3. APPLICATION SIZE FEE							
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).							
<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>			
- 100 =	/50	(round up to a whole number) x	=				
4. OTHER FEE(S)							
Non-English Specification, \$130 fee (no small entity discount)						2453 Pet. to Revive	750.00
Other (e.g., late filing surcharge):						2253 Extension for response within third month	510.00
						2801 Request for continued examination (RCE) (see 37 ...)	395.00

SUBMITTED BY			
Signature		Registration No. (Attorney/Agent)	40,927
Name (Print/Type)	Robert L. Buchanan	Telephone	(617) 439-4444
		Date	May 6, 2005

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV654384279US, in an envelope addressed to: MS RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: May 6, 2005

Signature: Patricia Barnes (Patricia Barnes)



PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/889,491-Conf. #4096
	Filing Date	February 5, 2002
	First Named Inventor	Philip Kusk
	Art Unit	1634
	Examiner Name	J. C. Switzer
Total Number of Pages in This Submission	Attorney Docket Number	60687(46865)

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please Identify below):		
<table border="1"><tr><td>Remarks</td><td>Please charge the fee of \$750.00 to Deposit Account No. 04-1105. A duplicate sheet is enclosed.</td></tr></table>			Remarks	Please charge the fee of \$750.00 to Deposit Account No. 04-1105. A duplicate sheet is enclosed.
Remarks	Please charge the fee of \$750.00 to Deposit Account No. 04-1105. A duplicate sheet is enclosed.			

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	EDWARDS & ANGELL, LLP		
Signature			
Printed name	Robert L. Buchanan		
Date	May 6, 2005	Reg. No.	40,927

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV654384279US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: May 6, 2005

Signature: Patricia Barnes (Patricia Barnes)



Attorney Docket No. 60687-RCE (46865)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S)	Kusk, Philip	EXAMINER:	Switzer, Juliet, C.
U.S.S.N.:	09/889,491	GROUP:	1634
FILED:	February 5, 2002	Conf. No.	4096
FOR:	GENETIC PREDISPOSITION		

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF EXPRESS MAIL

I, Patricia A. Barnes, hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office To Addressee" Label No. EV654384279US in an envelope addressed to Mail Stop: Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on May 6, 2005.

By: Patricia A. Barnes
Patricia A. Barnes

**LETTER IN SUPPORT OF APPLICANT'S
PETITION FOR REVIVAL UNDER 37 CFR 1.137 (b)**

Accompanying this Letter is a Petition under 37 CFR §1.137(b) to revive the above application. The application became abandoned on April 20, 2005 for failure to respond on the record to the Final Office Action mailed October 19, 2004. Enclosed are the following:

1) an RCE; 2) \$750.00 in payment of the petition fee by a small entity as set forth in 37 CFR §1.17(m) in the form of an authorization to charge our Deposit Account No. 04-1105; and 3) this Letter.

The Petition is further supported by the attached Statement of Sheila Belot (Docketing Assistant employed by the undersigned's law firm).

As stated by Sheila Belot, sometime on or about March 2005, she inadvertently removed the April 19, 2005 final due date for filing a Notice of Appeal. As also stated by Ms. Belot, her action was unintentional. The inadvertent omission of the final deadline from the firm's docketing system has been corrected by Ms. Belot's supervisor.

Based on the above, the undersigned submits that the entire period of delay in filing the required reply from the April 19, 2005 due date for the required reply until the filing of a grantable Petition under 37 CFR 1.137(b) was wholly unintentional.

Accordingly, it is respectfully requested that the above-referenced case be revived.

Although it is not believed that any further fee is needed to consider this submission, the Office is hereby authorized to charge our deposit account 04-1105 should such fee be deemed necessary.

Date:

6 May 2005

Respectfully submitted,



Robert L. Buchanan
Reg. No. 40,927
EDWARDS & ANGELL, LLP
P.O. Box 55874
Boston, MA 02205
Telephone: 617-439-4444
Fax: (617) 439-4170 / 7748

Customer No. 21874



Attorney Docket No. 60687-RCE (46865) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) Kusk, Philip EXAMINER: Switzer, Juliet, C.
U.S.S.N.: 09/889,491 GROUP: 1634
FILED: February 5, 2002 Conf. No. 4096
FOR: GENETIC PREDISPOSITION

Mail Stop: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF EXPRESS MAIL

I, Patricia A. Barnes, hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as "Express Mail Post Office To Addressee" Label No. EV654384279US in an envelope addressed to Mail Stop: Office of Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on May 6, 2005.

By: Patricia A. Barnes
Patricia A. Barnes

**STATEMENT OF SHEILA BELOT IN SUPPORT OF APPLICANT'S
PETITION FOR REVIVAL UNDER 37 CFR 1.137 (b)**

I, SHEILA BELOT, hereby state that sometime on or about March 2005, I inadvertently removed from the patent docket system of Edwards & Angell, LLP the April 19, 2005 due date for filing a response to the Final Office Action dated October 19, 2004 for the above-referenced case.

I, SHEILA BELOT, further state that the entire delay in filing the required reply from the April 19, 2005 due date for the required reply until the filing of a grantable Petition under 37 CFR 1.137(b) was unintentional.

Respectfully submitted,

5/6/05
Date 9 MAY 2005
6

#489928

Sheila Belot
SHEILA BELOT
DOCKETING ASSISTANT